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**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

ADRIANNE GRZYBOWSKI,  
  
Plaintiff,  
  
v.  
  
TAX RISE, INC.  
  
Defendant.

Case No. 3:2022-cv-01611-MCC

Hon. Martin C. Carlson

**DEFENDANT’S ANSWER TO  
PLAINTIFF’S COMPLAINT**

Complaint filed: October 13, 2022

Trial Date: None Set

Defendant TAX RISE, INC. (“Defendant”) now answers Plaintiff’s  
Complaint (the “Complaint”) against it, as follows:

Except as expressly admitted or qualified hereafter, Defendant denies each and  
every allegation of the Complaint.

**JURISDICTION**

1. This action arises of Defendant’s repeated violations of the Telephone  
Consumer Protection Act, 47 U.S.C. § 227, *et. Seq.* (the “TCPA”) and 47 C.F.R.  
§64.1200(c)(2).

**Answer:** Defendant admits to the jurisdiction of the Court based on the  
TCPA regulations. Defendant denies the remaining allegations in Paragraph 1.

1  
2 2. Venue is proper in this District pursuant to 28 U.S.C. § 139(b), in that the  
3 Defendant transacts business in this district and a substantial portion of the acts  
4 giving rise to this action occurred in this District.

5 **Answer:** Defendant admits to the allegations contain in paragraph 2.

6 **PARTIES**

7  
8 3. The Plaintiff, Adrienne Grzybowski (“Plaintiff”), is an individual residing in  
9 Wilkes Barre, Pennsylvania, and is a “person” as defined by 47 U.S.C. § 153(39).

10 **Answer:** Defendant admits on information and belief that Plaintiff is an  
11 “individual.” With respect to the remaining allegations in paragraph 3, Defendant  
12 lacks information or knowledge sufficient to form a belief as to the truth of the  
13 reminder allegations and therefore denies the remainder of the allegations.

14  
15  
16 4. Defendant Tax Rise, Inc. (“Defendant”), is a California business entity with  
17 an address of 19900 MacArthur Boulevard, Suite 400, Irvine, California 92612, and  
18 is a “person” as defined by 47 U.S.C. § 153(39).

19 **Answer:** Defendant admits to the allegations contain in paragraph 4.

20  
21 **THE NATIONAL DO-NOT-CALL REGISTRY**

22  
23 5. The National Do-Not-Call Registry allows consumers to register their  
24 telephone number and thereby indicate their desire not to receive telephone  
25 solicitations at those numbers. *See* 47 C.F.R. § 64.1200(c)

26 **Answer:** Defendant admits the allegations contain in paragraph 5.

27 6. A listing on the Do-Not-Call Registry “must be honored indefinitely, or until  
28 the registration is cancelled by the consumer or the telephone number is removed

1 by the database administrator.” *Id.*

2           **Answer:** Defendant admits to the allegations contained in paragraph 6.

3  
4 7. The TCPA and implementing regulations prohibit the initiation of the  
5 telephone solicitations to residential telephone subscribers to the Do-Not-Call  
6 Registry and provides a private right of action against any entity that initiated more  
7 than one such telephone solicitation within any 12-month period. 47 U.S.C. §  
8 227(c)(2); 47 C.F.R. §64.1200(c)(2).

9           **Answer:** Defendant admits to the allegations contained in paragraph 7.

10 8. Telephone solicitations under 47 C.F.R. § 64.1200(c)(2) include text  
11 messages. *See Gulden v. Liberty Home Guard LLC*, 2021 WL 689912, at \*4-5 (D.  
12 Ariz. Feb. 23, 2021).

13           **Answer:** Defendant admits to the allegations contained in paragraph 8.

14  
15   **FACTUAL ALLEGATIONS**  
16

17 9. Plaintiff’s cellular number, 570-XXX-6427, has been registered with the  
18 national Do-Not-Call Registry since February 2, 2007.

19           **Answer:** Defendant denies knowledge or information sufficient to form a  
20 belief as to the truth of the allegations contained in paragraph 9 and therefore  
21 currently denies them.  
22

23 10. Plaintiff does not have a separate residential telephone number and uses the  
24 cellular telephone as a residential telephone number.

25           **Answer:** Defendant denies knowledge or information sufficient to form a  
26 belief as to the truth of the allegations contained in paragraph 10 and therefore  
27 currently denies them.  
28

1  
2 11. Within the last year, Defendant initiated telephone solicitations to Plaintiff's  
3 cellular telephone by sending repeated text messages to Plaintiff's cellular  
4 telephone regarding assistance with tax debt.

5 **Answer:** Defendant denies the allegations contained in paragraph 11.  
6 Defendant secures its costumers' consent prior to initiate any type of  
7 communication with them.

8  
9 12. In January 2021 and multiple times, plaintiff replied to Defendant's texts  
10 with "STOP."

11 **Answer:** Defendant denies knowledge or information sufficient to form a  
12 belief as to the truth of the allegations contained in paragraph 12 and therefore  
13 currently denies them. Defendant secures its costumers' consent prior to initiate any  
14 type of communication with them.

15  
16 13. Despite Plaintiff's unequivocal instructions that Defendant stop all text  
17 messages, Defendant did not cease its telemarketing text messages to Plaintiff's  
18 cellular telephone within a reasonable amount of time.

19 **Answer:** Defendant denies knowledge or information sufficient to form a  
20 belief as to the truth of the allegations contained in paragraph 13 and therefore  
21 currently denies them. Defendant secures its costumers' consent prior to initiate any  
22 type of communication with them.

23  
24 14. Plaintiff continued to receive the unwanted text message solicitations from  
25 Defendant through mid-March 2021.

26 **Answer:** Defendant denies knowledge or information sufficient to form a  
27 belief as to the truth of the allegations contained in paragraph 14 and therefore  
28

1 currently denies them. Defendant secures its costumers' consent prior to initiate any  
2 type of communication with them.

3  
4 **COUNT 1**

5 **VIOLATIONS OF THE TCPA**

6 **(47 U.S.C. § 227, et seq. and 47 C.F.R. § 64.1200(c)(2))**

7  
8 15. The Plaintiff incorporates by reference all the above paragraphs of this  
9 Compliant as though fully stated herein

10 **Answer:** Defendant incorporates its responses in all the above paragraphs of  
11 this answer as though fully stated herein.

12  
13 16. 47 C.F.R. § 64.1200(c)(2) provides that "No person or entity shall initiate  
14 any telephone solicitation to ... (2) A residential telephone subscriber who has  
15 registered his or her telephone number on the national do-not-call registry of  
16 persons who do not wish to receive telephone solicitations that is maintained by the  
17 Federal government. Such do-not-call registrations must be honored indefinitely, or  
18 until the registration is cancelled by the consumer or the telephone number is  
19 removed by the database administrator."

20 **Answer:** Defendant admits to the allegations contained in paragraph 16.

21 17. The TCPA provides a private right of action to "A person who has received  
22 more than one telephone call within any 12-month period by or on behalf of the  
23 same entity in violation of the regulations ...." 47 U.S.C. § 227(c)(2).

24 **Answer:** Defendant admits the allegations contained in paragraph 17.

25 18. Defendant knowingly and willfully violated 47 U.S.C. § 227, *et seq.* and 47  
26 C.F.R. § 63.1200(c)(2) by initiating more than one telephone solicitation text  
27 messages to Plaintiff's cellular telephone within a 12-month period despite the fact  
28 that Plaintiff's cellular telephone was registered on the National Do-Not-Call  
Registry at all relevant times.

1       **Answer:** Defendant denies the allegations contained in paragraph 18 in its  
2 entirety. Defendant secures its costumers' consent prior to initiate any type of  
3 communication with them.

4  
5 19. Plaintiff is entitled to an award of \$500.00 in statutory damages for each text  
6 message sent by the Defendant in violation of the TCPA pursuant to 47 U.S.C. §  
7 227(b)(3)(B).

8  
9       **Answer:** Defendant denies the allegations contained in paragraph 19 in its  
10 entirety. Defendant secures its costumers' consent prior to initiate any type of  
11 communication with them.

12 20. Plaintiff is entitled to an award of treble damages in an amount up to  
13 \$1,500.00 for each text message Defendant sent to Plaintiff that constitutes a  
14 knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. §  
15 227(b)(3)(C).

16       **Answer:** Defendant denies the allegations contained in paragraph 20.  
17 Defendant secures its costumers' consent prior to initiate any type of  
18 communication with them.

19  
20                               **PRAYER FOR RELIEF**

21       WHEREFORE, the Plaintiff prays that judgment be entered against the  
22 Defendant as follows:

- 23                   A.       Statutory damages of \$500.00 for each violation  
24                               determined to be negligent pursuant to 47 U.S.C. §  
25                               227(b)(3)(B);

26       **Answer:** Defendant denies the allegations contained in number A.

- 27                   B.       Treble Damages for each violation determined to be  
28                               willful and/or knowing pursuant to 47 U.S.C. §  
29                               227(b)(3)(c); and



Amendments to the United States Constitution.

7. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

8. Plaintiff's claims are barred, in whole or in part, because any award would constitute unjust enrichment.

9. Plaintiff's claims are barred, in whole or in part, because Defendant did not willfully or knowingly violate the Telephone Consumer Protection Act of 1991 or any of its regulations.

10. Plaintiff's claims are barred, in whole or in part, because Defendant substantially complied with the Telephone Consumer Protection Act of 1991 and its regulations.

11. Defendant reserves the right to assert additional affirmative defenses as they are discovered through the course of discovery.

WHEREFORE, Defendant respectfully requests that the Court:

a. Dismiss all of Plaintiff's claims against Defendant with prejudice and on the merits;

b. That Plaintiff take nothing by the Complaint;

c. Award Defendant all costs, disbursements, and reasonable attorney fees allowed by law; and

d. Grant Defendant any such further relief to which it may be entitled.



1 Dated: December 2, 2022

ANTHONY MARCUS LAW FIRM

2  
3 By: /s/Anthony Marcus

4 Anthony L. Marcus

5 Counsel for Defendant  
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**PROOF OF SERVICE**

I, Anthony L Marcus, certify and declare that I am an active member of the State Bar of California and am not a party to this action. My business address is: Anthony Marcus Law Firm, 17272 Newhope Street Fountain Valley, CA 90708.

On December 05, 2022, I served a true and correct copy of:  
**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**  
on the Party(ies) in this action as follows:

Jody B. Burton Esq.  
Lemberg Law L.L.C.  
43 Danbury Road 3<sup>rd</sup> Floor  
Wilton, CT 06897  
jburton@lemborglaw.com

Attorneys for Plaintiff,  
Adrianne Grzybowski

☒ (VIA U.S. MAIL) In accordance with the regular mailing collection and processing practices of this office, with which I am readily familiar, by means of which mail is deposited with the United States Postal Service at Fountain Valley California that same day in the ordinary course of business, I deposited such sealed envelope, with postage thereon fully prepaid, for collection and mailing on this same date following ordinary business practices, addressed as set forth above.

☒ (BY ELECTRONIC SERVICE) I caused service of the foregoing document(s) to be sent on the above-mentioned date. I monitored the transmission of the electronic service thereafter. I found no indication of a return or failure of said transmission to the e-mail address(es) listed below, as follows:

I declare under the penalty of perjury under the laws of the State of California, that the above is true and correct.

DATE: December 05, 2022

/s/ Anthony Marcus

Anthony Marcus